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Attorneys for Defendant  
SMITH'S FOOD & DRUG CENTERS, INC.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

VICTOR OBREGON, an individual,  
  
Plaintiff,

v.

SMITH'S FOOD & DRUG CENTERS, INC.;  
DOES 1 through 100; and ROE  
CORPORATION 101 through 200, inclusive,  
  
Defendant(s).

Case No. 2:22-cv-02044-JAD-DJA

**DEFENDANT SMITH'S FOOD & DRUG  
CENTERS, INC.'S REQUEST TO HAVE  
ITS CORPORATE REPRESENTATIVE  
ATTEND THE MANDATORY  
SETTLEMENT CONFERENCE ONLINE**

Defendant SMITH'S FOOD & DRUG CENTERS, INC. ("SMITH'S" or "Defendant"), by  
and through its counsel of record JERRY S. BUSBY, ESQ. of the law firm COOPER LEVENSON,  
P.A. and hereby requests that its corporate representative be allowed to appear online for the  
upcoming mandatory settlement conference.

On January 26, 2024, this Court ordered that a settlement conference take place on April 30,  
2024. (ECF No. 20.) In the order, the Court stated the following:

All principal counsel or record who will be participating in the  
trial and who have full authority to settle this case, all parties  
appearing pro se, if an, and all individual parties must be present. In  
the case of non-individual parties, counsel of record shall arrange for  
an officer or representative with binding to settle this matter up to the  
full amount of the claim or most recent demand to be present for the  
duration of the conference. ... A request for an exception to the above  
attendance requirements must be filed and served at least three weeks  
prior to the settlement conference. Counsel or record, individual  
parties, and a fully authorized representative must attend the settlement  
conference unless I enter an order granting a request for exception.

1 The parties to this litigation and their counsel of record previously participated in a private  
2 mediation with retired Nevada State Supreme Court Justice Nancy Saitta from ARM acting as the  
3 mediator. That mediation took place on September 12, 2023. Unfortunately, the parties were unable  
4 to reach a settlement at the private mediation. Nevertheless, Defendant is willing to participate in  
5 the Mandatory Settlement Conference ordered by the Court in ECF No. 20 in a final attempt to  
6 resolve this case before trial.

7 Defendant SMITH'S is planning to have a corporate representative from the Home Office  
8 Legal Department of The Kroger Co. attend the settlement conference. The legal department of  
9 Kroger is located in the Kroger corporate offices in Cincinnati, Ohio. The designated corporate  
10 representative resides just outside of Cincinnati and works at the corporate headquarters of The  
11 Kroger Co<sup>1</sup>. If the representative for Defendant with binding settlement authority has to travel to Las  
12 Vegas, it would result in expenses and loss of work.

13 Further, the corporate representative for SMITH'S is very familiar with settlement  
14 conferences and mediations and has attended numerous in the past. As such, SMITH'S  
15 representative fully understands the importance of the settlement conference and Defendant suggests  
16 that the in-person appearance of a corporate representative is not necessary. Defendant further notes  
17 that it previously has had a corporate representative from The Kroger Co. participate *online* in  
18 settlement conferences in other cases pending in Nevada Federal District Court in which the parties  
19 were successful in settling with the SMITH'S representative appearing online.

20 Upon receiving this Court's order requiring personal appearances, counsel for Defendant  
21 contacted Plaintiff's attorney to ask if she would agree to have SMITH'S corporate representative  
22 appear online if the Court would allow the same. Plaintiff's attorney stated that she was not opposed  
23 to SMITH'S representative attending online. It was further agreed that Defense counsel, along with  
24 Plaintiff and her attorney, would all appear in person for the conference.

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27 <sup>1</sup> Defendant Smith's Food & Drug Centers, Inc. is a wholly owned subsidiary of Fred Meyer, Inc.  
28 which, in turn, is a wholly owned subsidiary of The Kroger Co. Thus, by agreement all civil  
litigation of this nature is overseen and controlled by the Kroger Legal Department.

1 SMITH'S home office will comply with whatever this Court orders and requests that it be  
2 allowed to attend remotely and save the expense for travel to use as additional consideration towards  
3 a settlement. Therefore, Defendant respectfully requests that this Court allow the SMITH'S  
4 corporate representative attend the April 30, 2024 mandatory settlement conference online.

5 Dated this 1<sup>st</sup> day of March, 2024.

6 COOPER LEVENSON, P.A.

7  
8 By /s/ Jerry S. Busby

9 Jerry S. Busby

10 Nevada Bar No. 001107


11 3016 West Charleston Boulevard - #195

12 Las Vegas, Nevada 89102

13 Attorneys for Defendant

14 SMITH'S FOOD & DRUG CENTERS, INC.

15 **IT IS SO ORDERED.** This motion is unopposed and the time to do so has passed.  
16 Defendant's counsel to arrange for defendant's corporate representative telephonic  
17 appearance.  
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19   
20 Maximiliano D. Couvillier III  
21 United States Magistrate Judge  
22 Dated: 3/25/2024  
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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 1st day of March, 2024, I did cause a true copy of the foregoing **DEFENDANT SMITH'S FOOD & DRUG CENTERS, INC.'S REQUEST TO HAVE ITS CORPORATE REPRESENTATIVE ATTEND THE MANDATORY SETTLEMENT CONFERENCE ONLINE** to be served via CM/ECF electronic filing upon the following person(s):

Amber N. King, Esq.  
HIGH STAKES INJURY LAW  
320 South Jones Boulevard  
Las Vegas, NV 89107  
Attorneys for Plaintiff

By /s/ Theresa H. Rutkowski  
An Employee of  
COOPER LEVENSON, P.A.